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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,327	11/20/2003	Jay S. Walker	98-057-C1	1054
22927	7590	10/03/2005	EXAMINER	
WALKER DIGITAL FIVE HIGH RIDGE PARK STAMFORD, CT 06905			RAO, ANAND SHASHIKANT	
			ART UNIT	PAPER NUMBER
			2613	

DATE MAILED: 10/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/718,327	Applicant(s) WALKER ET AL	
	Examiner Andy S. Rao	Art Unit 2613	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 19-29 is/are allowed.
- 6) ☐ Claim(s) 1 and 8-18 is/are rejected.
- 7) ☐ Claim(s) 2-7 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Specification

1. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
3. Claims 1 and 8-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Joao in view of DeVito.

Joao discloses a method comprising: arranging for a first user to monitor a remote location (Joao: column 93, lines 10-20); transmitting an image to first user, while the user is supposed to be monitoring the remote location (Joao: column 95, lines 45-55); and determining whether the first recognizes the breach of security (Joao: column 96, lines 5-14), as in claim 1. However, Joao fails to disclose transmitting a test image of a fabricated breach of security and determining an attentiveness of the first user based on whether the user recognizes the fabricated breach of security, as in the claim. DeVito discloses a method for measuring remote user's physiological reaction (DeVito: column 16, lines 5-14) based on transmitted images (DeVito: column 16, lines 20-25) of a scene of a security breach (DeVito: column 17, lines 15-25) in order

to measure the attentiveness of the user (DeVito: column 15, lines 55-60). Accordingly, given this teaching, it would have obvious for one ordinary skill in the art to combine the De Joao method, now incorporating the DeVito method for measuring a remote user's physiological reactions, has DeVito method for measuring a remote user's physiological reactions in order to gauge the attentiveness of the user by transmitting a scene of a fabricated security breach into the Joao method in order ensure that the user is actively engaged in monitoring the remote site. The Joao method, now incorporating the DeVito method for measuring a remote user's physiological reactions, has all of the features of claim 1.

Regarding claim 8, the Joao method, now incorporating the DeVito method for measuring a remote user's physiological reactions, has determining whether the first user responds to the test image within a predetermined period of time (DeVito: column 13, lines 60-67; column 14, lines 1-5), as in the claim.

Regarding claim 9, the Joao method, now incorporating the DeVito method for measuring a remote user's physiological reactions, has determining a first user's response to the test image (DeVito: column 15, lines 20-30), as in the claim.

Regarding claim 10, the Joao method, now incorporating the DeVito method for measuring a remote user's physiological reactions, has determining whether the first user notifies a predetermined entity of the apparent breach of security (Joao: column 95, lines 60-65), as in the claim.

Regarding claim 11, the Joao method, now incorporating the DeVito method for measuring a remote user's physiological reactions, has storing an indication of whether the first

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user recognized the apparent breach of security of in the test image (DeVito: column 16, lines 10-17), as in the claim.

Regarding claims 12-13, the Joao method, now incorporating the DeVito method for measuring a remote user's physiological reactions, has arranging for a second user to monitor the remote location (DeVito: column 15, lines 45-52), as in the claims.

Regarding claims 14-15, the Joao method, now incorporating the DeVito method for measuring a remote user's physiological reactions, has determining whether to transmit the test to the first user (DeVito: column 14, lines 40-65), as in the claims.

Regarding claim 16, the Joao method, now incorporating the DeVito method for measuring a remote user's physiological reactions, has obtaining, at a server (DeVito: column 16, lines 20-32) and from a sensor located at a remote location (Joao: column 94, lines 50-60); and forwarding the image to a device associated with the first user (Joao: column 95, lines 50-65), as in the claim.

Regarding claim 17, the Joao method, now incorporating the DeVito method for measuring a remote user's physiological reactions, has a processor and storage device of implementing the method (Joao: column 93, lines 15-25), as in the claim.

Regarding claim 18, the Joao method, now incorporating the DeVito method for measuring a remote user's physiological reactions, has using a computer readable medium encoded with the method (DeVito: column 16, lines 30-35), as in the claim.

Allowable Subject Matter

4. Claims 2-7 are objected to as being dependent upon a rejected base claim, but would be allowable claim 2 if rewritten in independent form including all of the limitations of the base claim 1 and any intervening claims.

5. Claims 19-29 are allowed.

The "...penalizing..." feature in dependent claim 2 and independent claim 19 is not anticipated nor obvious over the art of record.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Harper discloses a distance learning system.

7.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andy S. Rao whose telephone number is (571)-272-7337. The examiner can normally be reached on Monday-Friday 8 hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mehrdad Dastouri can be reached on (571)-272-7418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

asr
September 29, 2005

Andy S. Rao
Primary Examiner
Art Unit 2613
ANDY RAO
PRIMARY EXAMINER

